# CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force		Discourt		US
Jessica Russo			202105575	I —			O.L.		
Jessica Russo		Squad #10	202103373	M	Abuse		O.L.	Ш	Injury
Incident Date(s)		Location of Incident:			18 N	Ao. S	OL		Precinct:
Thursday, 09/09/2021 5:43 PM 06/23/2022 9:51 AM	I, Thursday,	Outside of § 87(2)(b) Church Street	and 100		3/9	9/202	3		61
Date/Time CV Reported		CV Reported At:	How CV Reported		Date/Tim	e Rec	eived at CC	CRB	
Fri, 09/10/2021 10:03 AM		IAB	Phone		Fri, 09/17	7/2021	1:40 PM		
Complainant/Victim	Type	Home Addre	ess		•				
Subject Officer(s)	Shield	TaxID	Command						
1. POM Nicholas Felix	27048	950397	061 PCT						
2. POM Patrick McMahon	22268	968632	061 PCT						
3. POF Beatrice Slavescu	13086	966346	061 PCT						
4. PO Regina Ou	16669	967635	061 PCT						
5. SGT Smithu Samuel	02294	933322	061 PCT						
6. LT Marlon Rowe	00000	929869	061 PCT						
Witness Officer(s)	Shield N	Tax No	Cmd Name						
1. PO Stephanie Beplat	02854	963399	061 PCT						
2. PO Ryan Caine	07700	963425	061 PCT						
3. PO Nicholas Lynch	24326	967177	061 PCT						
4. PO Stephen Locastro	18906	967965	061 PCT						
Officer(s)	Allegatio	on			Inv	estig	ator Reco	mme	endation
A.PO Regina Ou		On September 9, 2021, o Brooklyn, Police Office		1 § 87	(2)(b)				
B.POM Patrick McMahon		On September 9, 2021, on Brooklyn, Police Office		stoj	pped				
C.PO Regina Ou	in	n September 9, 2021, or Brooklyn, Police Office hinst <sup>887(2)(b)</sup>	utside of <sup>§ 87(2)(b)</sup> er Regina Ou used pl	nysi	cal				
D.POM Patrick McMahon	Force: O	n September 9, 2021, or Brooklyn, Police Office force against § 87(2)(b)		use	d				
E.POF Beatrice Slavescu	Force: O	n September 9, 2021, or Brooklyn, Police Office force against §87(2)(b)		use	d				
F.POM Nicholas Felix	in	n September 9, 2021, or Brooklyn, Police Office force against \$87(2)(b)		d					

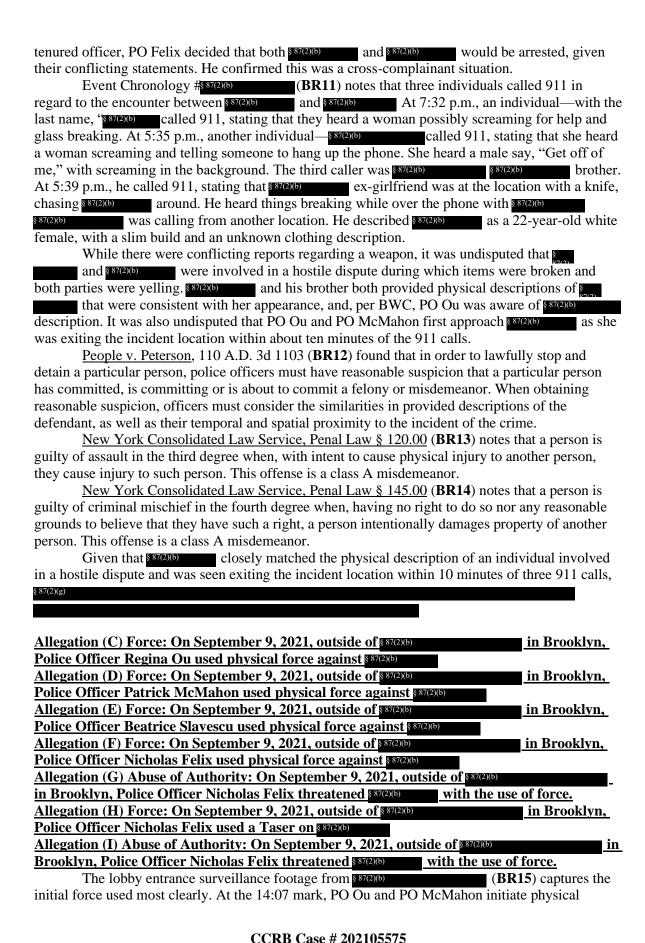
Officer(s)	Allegation	Investigator Recommendation
G.POM Nicholas Felix	Abuse: On September 9, 2021, outside of in Brooklyn, Police Officer Nicholas Felix threatened with the use of force.	
H.POM Nicholas Felix	Force: On September 9, 2021, outside of in Brooklyn, Police Officer Nicholas Felix used a Taser on \$87(2)(6)	
I.POM Nicholas Felix	Abuse: On September 9, 2021, outside of \$87(2)(0) in Brooklyn, Police Officer Nicholas Felix threatened with the use of force.	
J.SGT Smithu Samuel	Force: On September 9, 2021, outside of in Brooklyn, Sergeant Smithu Samuel used physical force against [\$87(2)(6)]	
K.SGT Smithu Samuel	Force: On September 9, 2021, outside of in Brooklyn, Sergeant Smithu Samuel used a chokehold against [8,87(2)(6)]	
L.SGT Smithu Samuel	Force: On September 9, 2021, outside of in Brooklyn, Sergeant Smithu Samuel restricted breathing.	
M.LT Marlon Rowe	Force: On September 9, 2021, outside of in Brooklyn, Lieutenant Marlon Rowe used physical force against \$\frac{87(2)(6)}{2}\$	
N.LT Marlon Rowe	Force: On September 9, 2021, outside of in Brooklyn, Lieutenant Marlon Rowe used a chokehold against [887(2)(6)]	
O.LT Marlon Rowe	Force: On September 9, 2021, outside of in Brooklyn, Lieutenant Marlon Rowe restricted breathing.	
P.SGT Smithu Samuel	Untruthful Stmt.: On June 23, 2022, at 100 Church Street in Manhattan, Sergeant Smithu Samuel provided a false official statement to the CCRB.	
§ 87(2)(g), § 87(4-b)		

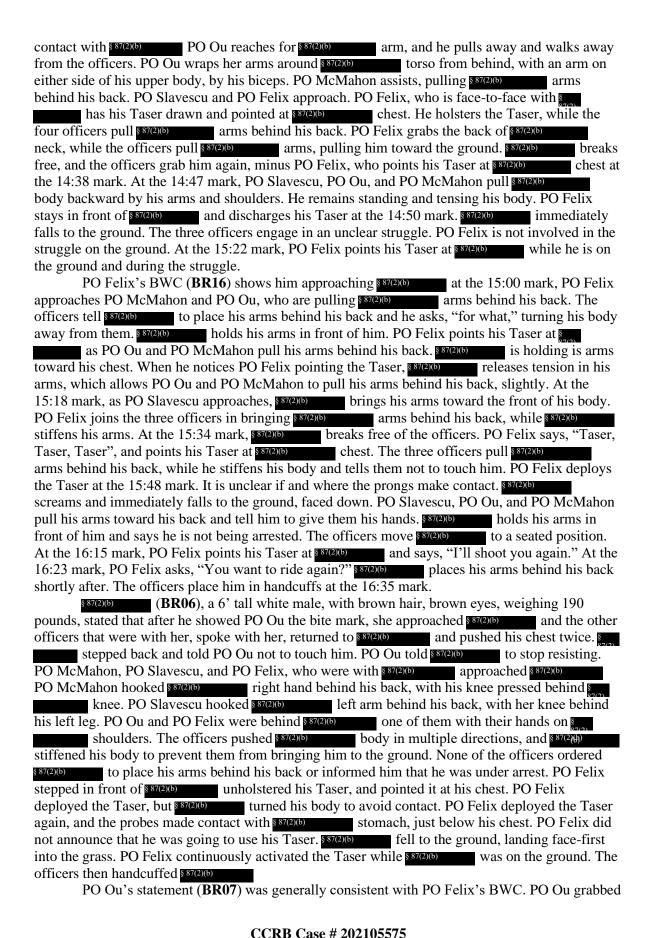
## Case Summary

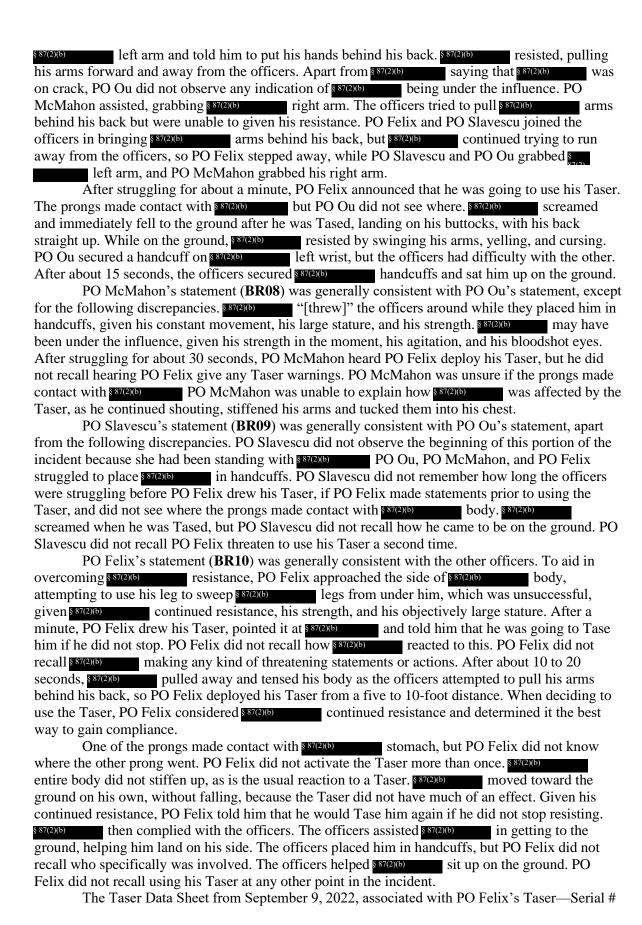
On September 10, 2021, \$37(2)(0) filed this complaint over the phone with the Internal Affairs Bureau, on behalf of her son, \$37(2)(0) and his girlfriend, \$37(2)(0) On
September 17, 2021, the CCRB received this complaint.
On September 9, 2021, at approximately 5:43 p.m., Police Officers Regina Ou, Patrick
McMahon, Beatrice Slavescu, and Nicholas Felix, all from the 61st Precinct, responded to \$500
in Brooklyn regarding a family dispute with a weapon. Upon arrival, [887(2)(8)]
ex-girlfriend, was exiting the building. PO Ou and PO McMahon stopped
(Allegations A and B: Abuse of Authority-Stop, \$87(2)(8) exited the
building, and PO Ou, PO McMahon, PO Slavescu, and PO Felix used force to place him in
handcuffs (Allegations C, D, E, and F: Force-Physical Force, \$870)@PO Felix pointed his
Taser at (Allegation G: Abuse of Authority-Threat of Force, 8870)
the handcuffing process, PO Felix activated his Taser to subdue \$37000 and the prongs made
body (Allegation H: Force-Nonlethal Restraining Device,
After using his Taser, PO Felix told \$87000 that he would "shoot him again"
(Allegation I: Abuse of Authority: Threat of Force (verbal), 187(2)(9) The officers placed
in handcuffs.  Sergeont Smithy Semuel, also from the 61st Precipet, arrived on scene after \$55/200.
Sergeant Smithu Samuel, also from the 61 <sup>st</sup> Precinct, arrived on scene after was handcuffed. While was seated on the ground, Sgt. Samuel lifted him off the ground and
brought him down to the ground, again, several feet away (Allegation J: Force-Physical Force,
When on the ground, Sgt. Samuel applied pressure to \$87000 head or neck
(subsumed in allegation J), which allegedly restricted stopping breathing (Allegation K:
Force-Chokehold, \$87000 (Allegation L: Force-Restricted Breathing, \$87000)
Lieutenant Marlon Rowe, also from the 61st Precinct, arrived on scene while Sgt. Samuel
was interacting with Police Officers Stephanie Belpat, Ryan Caine, Nicholas Lynch,
and Stephen Lecastro, all from the 61st Precinct, arrived on scene around when Lieutenant Rowe
did. Lieutenant Rowe escorted \$87(2)(b) to a seated position, where he used force to pull
shirt over his nose and mouth, allegedly restricting his breathing (Allegation M: Force-
Physical Force, Service (Allegation N: Force-Chokehold,
(Allegation O: Force-Restricted Breathing, \$87(2)(2)
While pulling the shirt over §87(2)(b) face, Lieutenant Rowe allegedly
injured his nose (Subsumed in Allegation M).
On June 23, 2022, at approximately 9:51 a.m., at 100 Church Street in Manhattan, Sgt.
Samuel provided a false official statement during his CCRB interview (Allegation P: Untruthful
Statement: False Official Statement, 1870/0
§ 87(2)(g), § 87(4-b)
As a result of this incident, \$87(2)(6) was arrested for assaulting a police officer, assault
with intent to cause physical injury, resisting arrest, obstruction of government administration, and
harassment in the second degree (BR01). [87(2)(6)] was arrested for assault with intent to cause
physical injury (BR02).
The investigation obtained BWC from all of the named officers (BR03), \$87000.\$87(4-
The investigation estations by the from the or the named effects (B100),
The relevant footage will be discussed below.
Findings and Recommendations
Allegation (A) Abuse of Authority: On September 9, 2021, outside of
in Brooklyn, Police Officer Regina Ou stopped \$87000  Allegation (B) Abuse of Authority: On September 9, 2021, outside of \$87000
Anceaton (D) Abuse of Authority. On September 7, 2021, outside of succession

**CCRB Case # 202105575** 

#### in Brooklyn, Police Officer Patrick McMahon stopped § 87(2)(6) PO McMahon's BWC (**BR05**) captures the officers' initial encounter with \$87(2)60 the 01:00 mark, or 5:45 p.m., \$87(2)(6) exits the building and PO Ou asks if she could wait there. The officers ask \$87(2)(b) what happened, and she tells them that \$87(2)(b) ■her boyfriend is abusive. At the 01:40 mark, \$87(2)(6) states that she has been staying at \$87(2)(6) apartment and that he beat "the shit out of [her]" that day. At the 02:11 mark, \$87(2)(b) down the ramp of the building. PO Ou states that \$57200 is coming downstairs, and PO McMahon tells \$87(2)(b) to wait. The four officers approach \$87(2)(b) to the left of the building entrance and stand with her. At the 03:00 mark, \$87(2)(6) states that there is no reason why she is being detained. PO Ou states that she is not detained, but they need to wait for to hear his side of the story. \$87(2)(b) walks away again, stating that she is the one with is the 911 caller. At the 03:39 mark, PO Ou the broken leg. PO Ou replies that § 87(2)(6) privately tells PO McMahon that \$87(2)(b) told her that \$87(2)(b) destroyed everything in his apartment, bit him, and confirmed that there were no weapons. At the 04:20 mark, \$37(2)(6) comes downstairs and tells PO Ou and PO McMahon that \$87(2)(6) destroyed everything in his apartment. At the 05:18 mark, he shows PO McMahon and PO Ou a bruise on his inner arm, which allegedly caused. He adds that \$87(2)(b) was grabbing him by his "balls and his dick." At the 08:38 mark, \$5(2)(b) presents PO Ou and PO McMahon with a video of he and § 87(2)(b) arguing. (**BR06**) stated that prior to calling the police, § 87(2)(6) arrived at his home often roamed around his building, intoxicated, and asking his neighbors on crutches. § 87(2)(b) for their phones. When § \$7(2)(b) opened the door, § \$7(2)(b) forced her way inside. He did not know if § 87(2)(b) was under the influence upon arriving. He denied being under the influence himself. § 87(2)(b) asked §87(2)(b) to leave, as she was not welcome there. They began arguing, and \$87(2)(b) recorded the encounter. \$87(2)(b) attacked \$87(2)(b) jumping on him, and grabbing his testicles. § 87(2)(6) destroyed many things in his apartment, including his iPad, his television remote, and a flag he had hanging, \$37(2)(6) called his mother, who called the police in regards. §87(2)(b) ran out of the apartment. Shortly after, § 87(2)(b) received a phone call from a female police officer—PO Ou. PO Ou asked for a physical description of \$87(2)(b) and \$87(2)(b) stated that she had on a red-hooded sweatshirt, black leggings, and crutches. PO Ou asked \$87(2)(b) to go downstairs to identify \$87(2)(b) and he agreed to do so. did not provide a statement to the investigation. PO Ou (BR07) stated that she and PO McMahon received a call for help at the incident location from a male caller. She did not recall any additional information provided, including any physical descriptions. Upon approach, \$87(2)(b) was exiting the building and initiated conversation with the officers, stating that \$87(2)(b) broke her leg and that she needed to leave. PO Ou told her to stay at the location because \$87(2)(6) was the 911 caller and they had to speak with both parties. § 87(2)(b) walked toward the left side of the entrance and the officers followed behind her. \$87(2)(b) exited the building and began yelling at \$87(2)(b) PO Ou denied speaking with \$87(2)(b) prior to his approach, and she did not know what prompted him to leave his apartment. The officers kept § 87(2)(b) and § 87(2)(b) separated. § 87(2)(b) showed PO Ou a bruise on his upper-left-inner arm, where \$87(2)(b) allegedly bit him, noted that \$87(2)(b) destroyed his apartment, and showed a video, which captured commotion but no physical abuse. PO McMahon's (BR08) and PO Slavescu's (BR 09) statements were generally consistent with PO Ou's statement, except for the following discrepancies. The initial call may have mentioned a weapon. Neither officer recalled if \$87(2)(b) presented evidence of \$87(2)(b) assault on him. PO Felix's statement (BR10) was generally consistent with the other officers, apart from the following discrepancies. Both \$87(2)(b) and \$87(2)(b) expressed that the other caused bruises on their bodies. PO Felix saw §87(2)(b) pointing to a bruise on his arm. As the most

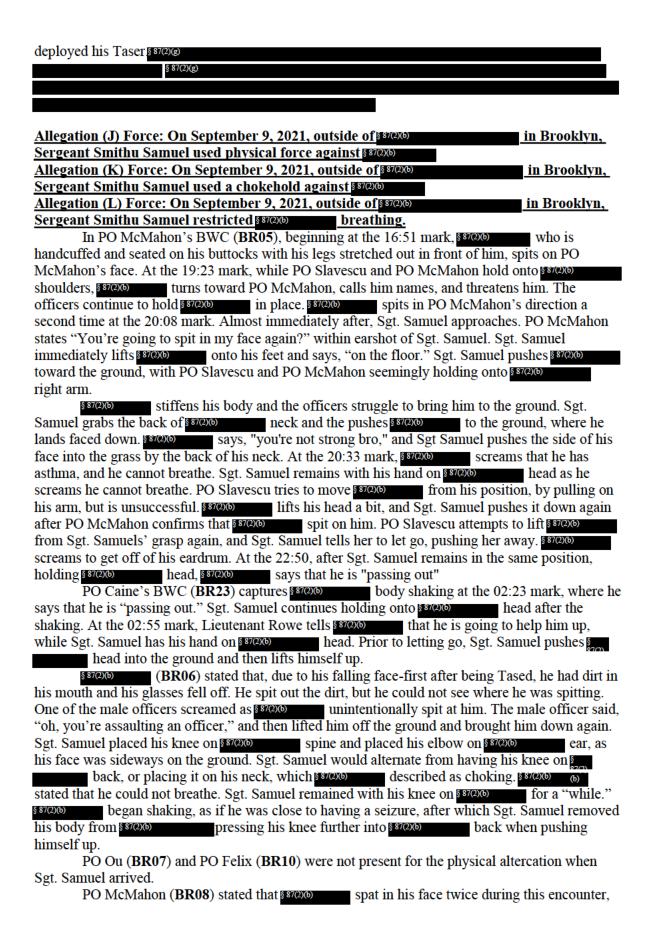


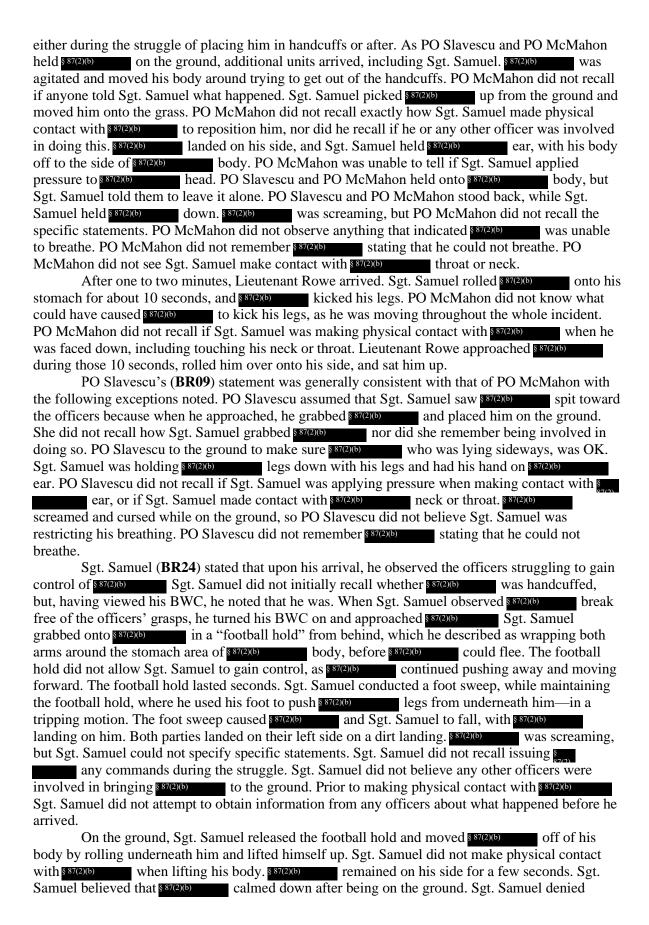


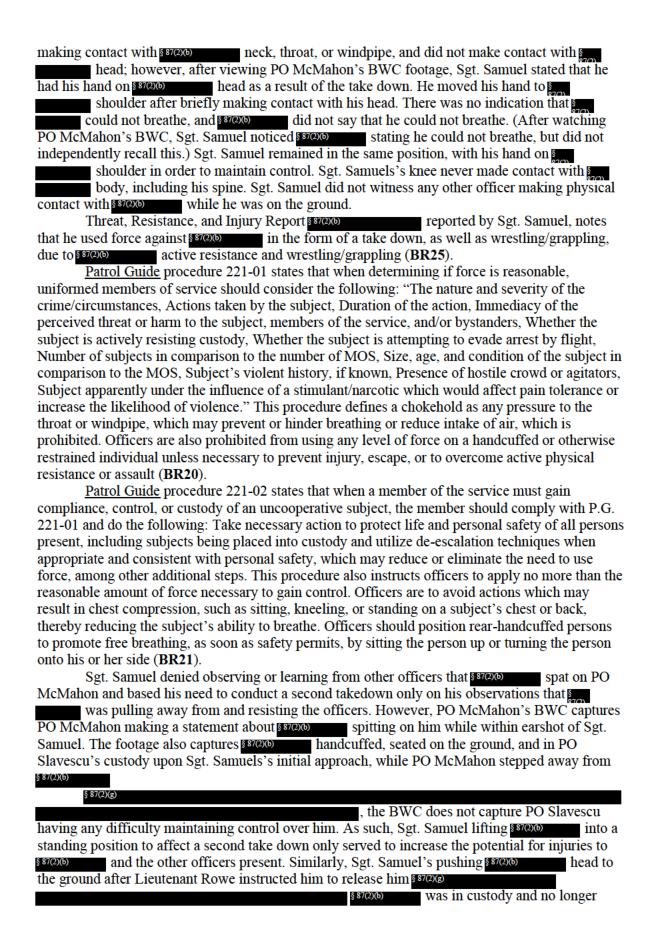


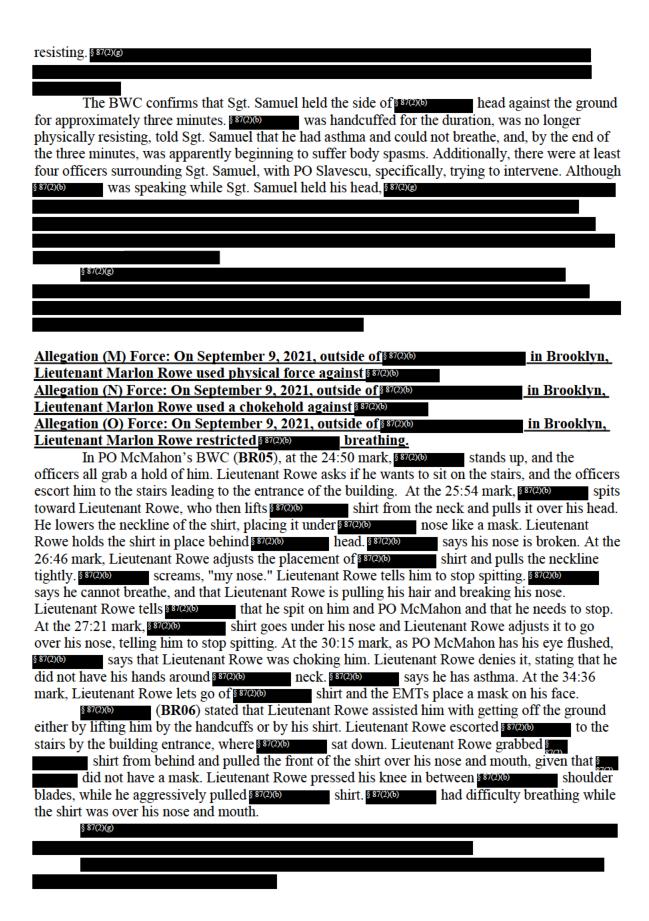
CCRB Case # 202105575

shows that PO Felix activated his Taser once during this incident, at 6:01 p.m. (BR17). Threat, Resistance, and Injury Report § 87(2)(6) documents PO Slavescu, PO Felix, PO Ou, and PO McMahon's use of force during this incident. The details of the report note that the officers tried to place \$37200 under arrest and faced active resistance—clenching his arms and stiffening his body. Threat, Resistance, and Injury Report \$87(2)(6) documents PO Felix's use of his conducted electrical weapon, with probes. The report notes that \$87(2)(6) actively resisted and wrestled/grappled with PO Felix and the reason for the use of the CEW was to overcome resistance or aggression. The serial number to his CEW was noted as [870]0 Patrol Guide procedure 221-01 states that when determining if force is reasonable, uniformed members of service should consider the following: "The nature and severity of the crime/circumstances, Actions taken by the subject, Duration of the action, Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, Whether the subject is actively resisting custody, Whether the subject is attempting to evade arrest by flight, Number of subjects in comparison to the number of MOS, Size, age, and condition of the subject in comparison to the MOS, Subject's violent history, if known, Presence of hostile crowd or agitators, Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence." (BR20). Patrol Guide procedure 221-02 states that when a member of the service must gain compliance, control, or custody of an uncooperative subject, the member should comply with P.G. 221-01 and do the following: Take necessary action to protect life and personal safety of all persons present, including subjects being placed into custody and utilize de-escalation techniques when appropriate and consistent with personal safety, which may reduce or eliminate the need to use force, among other additional steps (BR21). Patrol Guide procedure 221-08 states that when a member of service is considering the use of a conducted electrical weapon (CEW), they must consider the totality of the circumstances and decide if such a use of force is reasonable and necessary to overcome resistance when effecting an arrest or taking an emotionally disturbed person into custody. Specifically, they should consider the factors noted in PG 221-01—including, but not limited to, the nature and severity of the circumstances, as well as the actions taken by the subject. If possible, officers should issue a verbal warning to the intended subject and other members of service present prior to discharging the CEW (BR22). It was undisputed that the officers placed \$87(2)(0) and \$87(2)(0) under arrest due to their allegations of being victims of an assault. It was also undisputed that \$87(2)(6) resisted the officers verbal commands to comply with being taken into custody. §87(2)(g) physically resisted PO McMahon's and PO Ou's attempts to As noted above, § 87(2)(b) take him into custody by stiffening his body and holding his arms in front of him. Given that PO Felix pointing his Taser and the officers' use of force just barely and temporarily subdued \$ 87(2)(b) § 87(2)(g) Additionally, since PO Felix announced his use of the Taser before deploying the prongs and prepared a TRI documenting his use of the Taser [87(2)(g) As captured in BWC, § 87(2)(b) continued to resist physically and verbally after PO Felix









# Allegation (P) Untruthful Statement: On June 23, 2022, at 100 Church Street in Manhattan, Sergeant Smithu Samuel provided a false official statement to the CCRB. PO McMahon's BWC (**BR05**), which clearly captures Sgt. Samuel's physical interaction during this incident, shows how Sgt. Samuel held [587(2)(6)] head against the ground beginning around the 20:25 mark. PO Slavescu attempts to lift \$87(2)(8) from the ground. and Sgt. Samuel tells her to let go. \$87(2)(6) immediately states that he cannot breathe, after which PO Slavescu attempts to lift him again. Sgt. Samuel reiterates for PO Slavescu to let go and physically pushes her away at the 21:02 mark. Sgt. Samuel remains in the same position until the 21:30 mark. § 87(2)(b) makes multiple statements requesting Sgt. Samuel to get off of his head and his ear drum. However, PO McMahon's camera angle does not clearly capture positioning throughout the entire footage. PO Caine's BWC (BR23) clearly captures Sgt. Samuel's unmoving positioning, with his hand on §87(2)(6) head, from the 01:31 mark until the 02:56 mark. At the 02:18 mark, \$87(2)(6) says he is "passing out," and begins shaking his body and screaming. Sgt. Samuel remains with his hand on \$87(2)(6) head. Neither video clip captures Sgt. Samuel's hand on \$87(2)(b) shoulder. In Sgt. Samuels's CCRB interview (BR24), he acknowledged placing his hand on head when he initially landed on the ground. After watching footage from PO McMahon's BWC, from the 20:27 mark to the 21:08 mark, Sgt. Samuel stated that his hand did not remain on § 87(2)(6) head throughout the duration of the footage. He stated that he observed his hand on § 87(2)(b) hair. After watching PO Caine's BWC, from the 2:14 mark to the 3:01 mark, Sgt. Samuel reiterated that his hand was on [887(2)(6) hair, which he specified was on stop shoulder. Sgt. Samuel denied making contact with the hair on \$87(2)(6) NYPD Administrative Guide 304-10 (BR29) defines a false statement as an intentional statement that a member of service knows to be untrue, which is material to the outcome of an investigation. A material fact is defined as a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. Officers are prohibited from making false official statements. Upon reviewing PO McMahon's BWC and PO Caine's BWC, which captured second take down and his subsequent positioning on the ground, Sgt. Samuel denied making continuous contact with § 87(2)(b) head during this incident. Sgt. Samuel claimed that head, moving his hand to \$87(2)(6) he briefly touched § 87(2)(6) shoulder for the remainder of the encounter on the ground. Sgt. Samuel purposely denied observing his hand on \$87(2)60 head, despite the BWC which clearly captures his unmoving positioning by \$870,00 from two separate angles, as well as multiple statement from \$87(2)(6) about Sgt. Samuel being on his head. Sgt. Samuel was the subject of these allegations, he was presented clear evidence and an opportunity to amend his statement, and his statement was material to the investigation. 87(2)(g), § 87(4-b)

<ul><li>§ 87(2)(</li></ul>	Civilian and Officer CCRB Histories
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<ul> <li>Lieu retir</li> </ul>	has been named a party (Estenant Marlon Rowe retired from the NYPD on July 25, 2022 (BR26). Prior to ing, he was the subject of 15 CCRB complaints and 34 allegations, none of which been substantiated. §\$7000
Inav	, occi substantiace.
	geant Smithu Samuel has been a member of service for 19 years, where he has been different spirits and 12 allegations, three of which
	ed the subject of six other CCRB complaints and 13 allegations, three of which tantiated.
	201106245 involved an allegation of failure to prepare a memo book entry,
	<ul> <li>was cited as other misconduct.</li> <li>202102419 involved a substantiated allegation of physical force, whether the</li> </ul>
	board recommended command discipline B. \$87(2)(2), \$87(4-b)
	⊙ § 87(2)(g)
- DO	On her have a manufact of coursing for three years and this is the first CCDD cours
<ul><li>whe</li><li>PO !</li></ul>	re she has been named a subject. McMahon has been a member of service for two years and this is the first CCRI
<ul><li>whe</li><li>PO I com</li></ul>	McMahon has been a member of service for two years and this is the first CCRI plaint where he has been named a subject.
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<ul><li>whe</li><li>PO I</li><li>com</li><li>PO I</li></ul>	re she has been named a subject.  McMahon has been a member of service for two years and this is the first CCRE plaint where he has been named a subject.  Slavescu has been a member of service for four years, where she has been name ect in one other CCRB complaint and two allegations, [\$87(2)(2), \$87(4-5)
whe PO S com PO S subj	re she has been named a subject.  McMahon has been a member of service for two years and this is the first CCRI plaint where he has been named a subject.  Slavescu has been a member of service for four years, where she has been name
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## Mediation, Civil, and Criminal Histories

This case was not suitable for mediation. On September 26, 2022, the Office of the New York City Comptroller confirmed that nor \$87(2)(6) filed a notice of claim regarding this incident neither § 87(2)(b) (BR31). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] Squad: 10 Investigator: Jessica Russo Inv. Jessica Russo 11/14/2022 Signature Print Title & Name Date Squad Leader: Maura R. Roche IM Maura R. Roche 11/14/2022 Signature Print Title & Name Date

Print Title & Name

Reviewer:

Signature

Date